

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RONALD E. GUNDERSON Jr.,

Petitioner,

V.

STATE OF WASHINGTON.

Respondent.

Case No. C10-5514BHS/JRC

REPORT AND
RECOMMENDATION TO DENY
IN FORMA PAUPERIS STATUS

**NOTED FOR:
AUGUST 27, 2010**

This habeas corpus action, filed pursuant to 28 U. S.C. 2254, has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge's Rules MJR 3 and MJR 4.

Petitioner seeks to proceed in forma pauperis, but has an average spendable balance in his account that would allow for payment of the full five dollar filing fee (Dkt. # 1). Therefore, the motion should be denied.

The district court may permit indigent litigants to proceed in forma pauperis upon completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Petitioner has the funds needed for full payment.

Plaintiff has not shown that he is unable to pay the full filing fee to proceed with his petition. Accordingly, the court recommends the in forma pauperis status be DENIED and petitioner be given thirty days to pay the filing fee.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on August 27, 2010, as noted in the caption.

Dated this 5th day of August, 2010.


J. Richard Creature
United States Magistrate Judge